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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/890,804	10/01/2001	Holger Hauptmann	0475-0193P	6560
2292	7590	06/01/2005	EXAMINER	
BIRCH STEWART KOLASCH & BIRCH PO BOX 747 FALLS CHURCH, VA 22040-0747			HOFFMANN, JOHN M	
			ART UNIT	PAPER NUMBER
			1731	

DATE MAILED: 06/01/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	09/890,804	HAUPTMANN ET AL.
	<b>Examiner</b>	<b>Art Unit</b>
	John Hoffmann	1731

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 07 October 2004.  
 2a) This action is **FINAL**.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1,2,4,5,10 and 22-25 is/are pending in the application.  
 4a) Of the above claim(s) 22-25 is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 1,2,4,5 and 10 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on 09 September 2004 is/are: a) accepted or b) objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|  | 6) <input type="checkbox"/> Other: _____                                    |

**DETAILED ACTION**

***Election/Restrictions***

Applicant's traversal of the election by original presentation requirement in the reply filed on 17 May 2005 is acknowledged. The traversal is on the ground(s) (1) that claims 22-25 are "embraced" by allowed generic claim 1, (2) the original election was for different physical properties of supporting material, and (3) there is no undue burden because claim 22 was already searched . This is not found persuasive because (1) the relevance of being "embraced" is not understood, (2) the basis of the withdrawal of claims 22-25 was based on the originally claimed (searched and examined) invention [it is not based on the original election] (3) Applicant's assertion of no burden is not supported by any evidence or rationale; there is simply no evidence that the prior examiner conducted a complete search of the hook specie. There is no reason for the prior examiner to conduct a complete search for the hook specie when applicant does not have a claim limited thereto and presents a claim to another specie. Most importantly, the is no requirement that the Office demonstrate or even allege a burden for a burden (in instances of mutually exclusive species – and for 371 applications.

The requirement is still deemed proper and is therefore made FINAL.

***Claim Rejections - 35 USC § 112***

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 1-2, 4-5 and 10 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

Examiner could find no support for method as claimed in claim 1. Most notably the "bridge portion". Furthermore Examiner could not find movable supports that comprise support rods that are connected to both a base and a support structure. Examiner simply could not find these things disclosed or reasonably suggested by the specification as originally filed. This is deemed to be a *prima facie* showing of lack of support. The burden is now on Applicant to demonstrate support.

Furthermore, Examiner did a text search of the present specification – there is no indication as to anything being connected to anything else.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

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Claims 1,2, 4 , 5, and 10 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The phrase “operatively connected” is indefinite as to its meaning, because it is not understood how applicant’s apparatus constitutes operatively connected structures, but Thurnauer’s arrangement lacks operatively connected features. It seems to Examiner that applicant is using some non-standard definition for “operatively connected” and since it is unclear what that definition is, the claims fail to inform one as to what is meant. Furthermore, it doesn’t seem like the things are connected if the supports move with respect to the support structure as claimed.

There is no antecedent basis for “the bridge” at the second last line of claim 1. And there is confusing antecedent basis for “said movable supports” at line 9 and elsewhere; line 3 indicates that there can be exactly one support. Thus it is unclear if there must be a bridge portion if there are no “supports”, rather exactly one support.

Examiner is confused as to what is meant by “bridge portion”. As indicated above, there is no support for such in the specification. Thus, one cannot turn to the specification to see what is meant by this “portion”. More importantly, there are two different types of bridges: namely a dental bridge, and the more generic type of bridge which includes any thing that spans two features. For example it is unclear if feature (H) of figure 10 is properly considered a “bridge portion” because it bridges pins B-B, or if feature A could be a bridge portion because it is (or could be) a dental bridge.

It is unclear what is meant by the moveable supports comprising a bridge portion – it is unclear if the bridge portion is a specific type of “moveable support” or whether it is another structure that is associated with the movable supports.

Claim 1 requires that the support rods are connected to the base and they are connected to a support structure. This is not understood – the base and the support structure appear to be the same thing.

Claim 10: it is unclear if the supports of claim 10 are the same thing as the movable supports of claim 1, or if they are additional supports.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 2, 4-5, and 10 rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Thurnauer 3904352.

See how Thurnauer was previously applied. As indicated above, the claims are not understood, but as best understood, the present claims fail to define over Thurnauer

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because the present invention and Thurnauer do the same thing in the same manner.

In particular, they both encompass resting the material to be fired on horizontal rods which permit shrinkage. See present claim 4 and Thurnauer, col. 6, lines 27-32.

### ***Drawings***

"Annotated Sheets" were received on 17 May 2005. These drawings are not approved – because Examiner could not tell what changes were made (see arguments section below). Furthermore they are only "annotated sheets". Applicant is required to submit "Annotated Marked-up Drawings" which are clearly labeled as such.

The drawings remain objected to under 37 CFR 1.84 (p) 4.

As indicated previously:

In addition to Replacement Sheets containing the corrected drawing figure(s), applicant is required to submit a marked-up copy of each Replacement Sheet including annotations indicating the changes made to the previous version. The marked-up copy must be clearly labeled as "Annotated Marked-up Drawings" and must be presented in the amendment or remarks section that explains the change(s) to the drawings. See 37 CFR 1.121(d). Failure to timely submit the proposed drawing and marked-up copy will result in the abandonment of the application.

***Response to Arguments***

Applicant's arguments filed 17 May 2005 have been fully considered but they are not persuasive.

Applicant points to support for the amendments on pages 3,4 and 7 and figure 6. Examiner considered those portions (as well as the rest of the application as filed) and could find no mention of any "bridge portion" or anything similar there to; although there is a bridge, that is clearly the "firing material". And, although there are "rods" there is no mention of "support rods" – but assuming they are the same thing, there is no mention of them being connected to a base and connected to a support structure as presently claimed.

It is further argued that the present invention defines over Thurnauer because of the bridge portion with support rods. As indicated above, there is no support for these things as claimed, nor is such understood. But it is deemed that Thurnauer has a bridge portion ( 2, 10 and/or 12) in as much as applicant has a bridge portion. Thurnauer clearly has support rods (see rejection above)

As to the arguments that claim 21 should have been at issue in the previous Office action. Such is not understood because claim 21 was cancelled by applicant.

As to the drawing being made in red. Such does not comport to present Office policy which requires annotations. The Office's official files are now computer based images that lack colors. Thus the mere use of red ink fails to adequately represent the changes to the drawings; such cannot take the place of annotations.

***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to John Hoffmann whose telephone number is (571) 272 1191. The examiner can normally be reached on Monday through Friday, 7:00- 3:30.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Steve Griffin can be reached on 571-272-1189. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

John Hoffmann  
Primary Examiner  
Art Unit 1731

jmh

5-27-05